

Deposition of Kirk Houtchens - Taken July 26, 2007

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

W.A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES)
FOR THE STATE OF OKLAHOMA)

Plaintiffs,)

vs.)

4:05-CV-00329-TCK-SAJ

TYSON FOODS, INC., et al.,)

Defendants.)

VIDEOTAPED DEPOSITION OF KIRK HOUTCHENS

Taken at the law offices of Mitchell, Williams,
Selig, Gates & Wooyard, 5414 Pinnacle Point Drive, Suite
500, Rogers, Arkansas 72758, on July 26, 2007, at 11:36
a.m.

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EXHIBIT

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1 MR. McDANIEL: Object. It's argumentative.

2 A. I believe we -- we recognize that it's been
3 designated a scenic river.

4 Q. (Mr. Riggs continued.) Has that fact made any
5 difference to your company in the way it operates?

6 MR. McDANIEL: Object to the form.

7 A. No, sir.

8 Q. (Mr. Riggs continued.) Can you list for me any ways
9 in which your company's operations are different in the
10 Illinois River Watershed from other places it operates
11 because the Illinois River was designated a scenic river?

12 A. No, sir.

13 Q. This act was passed in 1970. Has the number of
14 chickens produced annually by Peterson in the Illinois
15 River Watershed increased since the Illinois River
16 Watershed was des -- Illinois River was designated a
17 scenic river?

18 A. I don't know what the number of birds we produced
19 before 1970 was.

20 Q. So you don't know if you produce more birds there
21 now than in 1970?

22 A. No, sir.

23 Q. Since 1980, has the number of chickens produced by
24 your company in the Illinois River Watershed increased or
25 decreased?

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1 A. I'm not sure of that, either.

2 Q. Since 1990, do you know whether the number of birds
3 produced there has increased or decreased?

4 A. No. I don't know, sir.

5 Q. Since 2000, do you know if the number of birds has
6 increased?

7 A. I believe it has.

8 Q. In the Illinois River Water --

9 A. (Witness nods head.)

10 Q. You have more birds being produced there now than --
11 than you did in 2000?

12 A. I believe so.

13 Q. Any idea how many more?

14 A. Not without looking at the number of houses before
15 and after, so I would just be speculating.

16 Q. So you don't have that with you today?

17 A. No, sir.

18 Q. Or do you? Is distance from the feed mill a factor
19 for Peterson in contracting with growers who raise
20 chickens?

21 A. It's one of them, yes.

22 Q. Okay. What are the others?

23 A. Well, I would say the most important is the actual
24 potential grower that we're talking to.

25 Q. Whether you -- in your judgment, that person would

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1 be a good grower versus a not so good grower?

2 A. Correct. I mean, obviously, we wouldn't contract
3 with a grower in New York City.

4 Q. Right. How -- what is about the greatest distance a
5 grower -- Peterson grower could be from a feed mill --
6 from a Peterson feed mill?

7 A. I was going -- I'm pretty sure that's 50 miles
8 radius.

9 Q. Is there, like, a company policy? Since you said it
10 that way, it makes me think maybe there's sort of an
11 unwritten policy, 50 miles would be about the maximum
12 distance that a grower could be from a feed mill?

13 A. Are you asking me if there's a company policy?

14 Q. Yeah. Not necessarily a written policy, but is
15 there sort of an understanding within the company, That's
16 about as far away from our feed mills as any of our
17 growers should be?

18 A. About 50 miles is as far we'd like to.

19 Q. Okay. Do you know where the Buffalo River is in
20 Northwest Arkansas?

21 A. Fairly certain. In the general direction.

22 Q. Okay. Uh, the upper reaches of the Buffalo River,
23 say from Boxley to Ponca, Ponca to Prewitt, that area of
24 the Buffalo River?

25 A. I'm not really familiar with it, sir.